



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1184/P1
RPN:cjs:jm

1

TODAY

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2013 B.II

Gen. Cont.

1 AN ACT *to create* 100.313 of the statutes; **relating to:** solicitation of fee for a deed
2 of conveyance of real property, granting rule-making authority, and providing
3 a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 100.313 of the statutes is created to read:

5 **100.313 Solicitation of a fee for providing a deed.** (1) In this section,

6 (a) "deed" means a written document evidencing transfer of ownership of real property.

7 (2) No person may solicit a fee for providing a copy of any deed until the person
8 has registered with the department, obtained a registration number from the
9 department, and paid an initial registration fee and any annual registration renewal

(b) "solicit" means advertise or market to property owners with whom the solicitor has no preexisting business relationship.

1 fee established by the department. The registration fees established by the
2 department shall be sufficient to defray the department's expenses in administering
3 this section.

4 (3) A person soliciting a fee for providing a copy of a deed shall state on the top
5 of the document used for the solicitation, in at least 24-point type, all of the following:

6 (a) That the solicitation is not from a governmental agency.

7 (b) That no action is legally required by the person being solicited.

8 (c) The cost of obtaining a copy of the deed from the office of the register of deeds.

9 (d) The contact information for the office of the register of deeds.

10 (e) The department's registration number issued to the solicitor, identified as
11 such, and the contact information of the department.

12 (4) The document used for a solicitation under this section may not be in a form
13 or use deadline dates or other language that makes the document appear to be a
14 document issued by a governmental agency or that appears to impose a legal duty
15 on the person being solicited. The department may promulgate rules specifying the
16 contents and form of the solicitation document.

17 (5) A person soliciting a fee for providing a copy of a deed may not charge a fee
18 of more than 4 times the amount charged by the office of the register of deeds for a
19 copy of the same deed, or \$45, whichever is less.

20 (6) A person soliciting a fee from potential clients for providing a copy of a deed
21 shall furnish the office of the register of deeds of each county where the solicitations
22 are to be distributed with a copy of the document that will be used for those
23 solicitations not less than 15 days before distributing the solicitations.

24 (7) The department shall investigate violations of this section. The department
25 may suspend or revoke the registration of any person who violates this section. The

1 department may bring an action against any person who violates this section.
2 ~~recover a forfeiture of~~ not more than \$100 for each solicitation document distributed
3 in violation of this section.

4 (8) This section does not apply to the office of the register of deeds.

5 (END)

not. The court may order the person who violates
this section to refund all of the ~~monies~~ ^{violates}
paid by consumers to the violator and
to forfeit property owners

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1184/lins
RPN:cjs:jm

state

Insert anl:

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document used
to make a

Currently, a property owner may obtain a copy of the deed for his or her home by contacting the county register of deeds office and paying a nominal fee.

This bill prohibits a person from soliciting a fee for providing a copy of a deed until the person registers with the department of agriculture, trade and consumer protection (DATCP). The bill requires any solicitation of a fee to provide a copy of a deed to include, in at least 24-point type, that the solicitation is not from a governmental agency, no action is legally required by the person being solicited, the contact information for the office of the register of deeds and cost of obtaining the deed from that office, and the solicitor's DATCP registration number.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the property owner. The bill prohibits the solicitor from charging more than four times the amount charged by the register of deeds for the deed, or \$45, whichever is less.

The bill also requires a solicitor to furnish the register of deeds where the solicitation is to be made with a copy of the solicitation document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds to home owners of moneys paid to a violator and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

property

moneys

of each
county

Nelson, Robert

From:
Sent:
To:
Subject:

Murray, Mike
Monday, September 30, 2013 11:51 AM
Nelson, Robert
RE: LRB-1184/P1 revisions

Hi Bob,

Rep. Hebl would like to make the following changes to LRB 1184/1:

1. In section 1, make the bill applicable to the solicitation of a fee for providing a deed or other government records. I'm not sure how or if to define "government record," I obviously defer to you on that. Gary simply wants to make sure that all solicitations by provide entity to procure a government record for a fee are covered, regardless if it's a deed, birth certificate, government form, etc ...
2. Change the definition of "solicit" to include any individual resident of a residential or commercial property, not just the "property owner." Gary wants to make sure that tenants are covered as well as any other occupants who might not technically be the "owner" (i.e.: a spouse).
3. DATCP suggested that we include a definition of "document" in regard to the solicitation to ensure that the law covers mailings, emails, websites, texts or any other form a solicitation might take. I defer to you regarding whether that is actually necessary or if you think "document" already applies to those situations.
4. Require the solicitor to disclose their actual business name and physical address, not just a PO Box.
5. Keep the requirement on p. 3, lines 9-12 for any deed solicitor to notify the register of deeds regarding the solicitation. Do not make this applicable to other solicitations added to the bill.
6. If there are existing consumer protection laws that allow increased penalties for repeat offenses, make them applicable to these violations. In addition to allowing DATCP to commence an action, allow district attorneys or DOJ to enforce the statute at the request of DATCP.

Thanks Bob and please let me know if you have any questions.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Murray, Mike
Sent: Tuesday, May 07, 2013 8:56 AM
To: Nelson, Robert
Subject: RE: LRB-1184/P1 revisions

Thanks Bob

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Nelson, Robert
Sent: Monday, May 06, 2013 2:26 PM
To: Murray, Mike
Subject: RE: LRB-1184/P1 revisions

From: Murray, Mike
Sent: Monday, May 06, 2013 1:11 PM
To: Nelson, Robert
Subject: LRB-1184/P1 revisions

Hi Bob,

DOJ provided Rep. Hebl with a couple of suggestions regarding LRB 1184/p1. They are listed in the email below. Would you mind incorporating these suggestions into a final draft of the bill? Thanks very much,

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Rinehart, Mark W. [<mailto:RinehartMW@DOJ.STATE.WI.US>]
Sent: Friday, April 19, 2013 3:38 PM
To: Murray, Mike
Subject: RE: deed solicitation bill

Hello Mike,

I just received some first impressions on your proposal from one of our attorneys.

First, the bill could be read to sweep in the provision of deeds as an incidental part of professional services (e.g. an attorney, title company, etc.). I think this could be addressed either by defining "solicit" to mean advertising or marketing to consumers with whom the seller has no preexisting business relationship—or alternatively by explicitly excepting incidental transactions (as an addition to (8)).

Second, the remedies could be expanded to include refund of all monies paid by consumers pursuant to non-complying solicitations.

Hope this helps.



14 10/3
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-11840

RPN:cjs:jm

8 days

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TODAY

2013 BILL

solicited person

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by a private person

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AN ACT to create 100.313 of the statutes; relating to: solicitation of fee for a deed of conveyance of real property, granting rule-making authority, and providing a penalty.

public record

name, address, and

Analysis by the Legislative Reference Bureau

Currently, a property owner may obtain a copy of the deed for his or her home by contacting the county register of deeds office and paying a nominal fee.

This bill prohibits a person from soliciting a fee for providing a copy of a deed until the person registers with the Department of Agriculture, Trade and Consumer Protection (DATCP). The bill requires any document used to make a solicitation of a fee to provide a copy of a deed to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the office of the register of deeds and cost of obtaining the deed from that office, and the solicitor's DATCP registration number.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the property owner. The bill prohibits the solicitor from charging more than four times the amount charged by the register of deeds for the deed, or \$45, whichever is less.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made with a copy of the solicitation document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds to property owners of moneys paid to a violator,

Use 3

public record

fee for or

Insert and

on at the request of DATCP, the department of Justice, or a district attorney, authority

for a copy of a deed

governmental office that has custody of the public record

Use 2x

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and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.313 of the statutes is created to read:

100.313 Solicitation of a fee for providing a deed (1) In this section:

(a) "Deed" means a written document evidencing transfer of ownership of real property. *public record*

(b) "Solicit" means advertise or market to *an individual* ~~property owners~~ with whom the solicitor has no preexisting business relationship. *business or individual*

(2) No ~~person~~ *business or individual* may solicit a fee for providing a copy of any ~~deed~~ *record* until the ~~person~~ *business or individual* has registered with the department, obtained a registration number from the department, and paid an initial registration fee and any annual registration renewal fee established by the department. The registration fees established by the department shall be sufficient to defray the department's expenses in administering this section. *business or individual*

(3) A ~~person~~ *business or individual* soliciting a fee for providing a copy of a ~~deed~~ *record* shall state on the top of the document used for the solicitation, in at least 24-point type, all of the following:

(a) That the solicitation is not from a ~~governmental agency~~ *state or local unit of government*.

(b) That no action is legally required by the person being solicited. *the state or local unit of government*

(c) The cost of obtaining a copy of the ~~deed~~ *or fee for a public record* from the office of the register of deeds. *the state or local unit of government that has custody of it*

(d) The contact information for the office of the register of deeds.

(e) The department's registration number issued to the solicitor, identified as

such, and the contact information of the department.

(f) The ~~name and physical address~~ *name and physical address* of the ~~business or individual~~ *business or individual* soliciting the fee.

BILL

(4) The document used for a solicitation under this section may not be in a form or use deadline dates or other language that makes the document appear to be a document issued by a ^{state or local unit of government} governmental agency or that appears to impose a legal duty on the person being solicited. The department may promulgate rules specifying the contents and form of the solicitation document.

(5) A ^{business or individual} person soliciting a fee for providing a copy of a deed may not charge a fee of more than 4 times the amount charged by the office of the register of deeds for a copy of the same ^{record} deed or \$45, whichever is less.

(6) A ^{business or individual} person soliciting a fee from property owners for providing a copy of a deed shall furnish the office of the register of deeds of each county where the solicitations are to be distributed with a copy of the document that will be used for those solicitations not less than 15 days before distributing the solicitations.

(7) The department shall investigate violations of this section. The department may suspend or revoke the registration of any person who violates this section. The ^{or request that the department of justice or a district attorney bring an action} department may bring an action against any person who violates this section. The court may order the person who violates this section to refund all of the moneys paid ^{for the a first violation} by property owners to the violator and to forfeit ^{not more than \$100 for each} solicitation document distributed in violation of this section. **INSERT 3-18**

(8) This section does not apply to the office of the register of deeds.

(END)

state agency or local unit of government that has custody of the record

d-note

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1184/2ins
RPN:cjs:jm

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Change component to anal. #1

Insert anl:

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee for receiving a copy of a public record.

Insert 2-4:

(a) "Local unit of government" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, or a combination^{or} subunit^{or} instrumentality of any of the foregoing.

(b) "Record" means any material on which written, drawn, printed, spoken, visual^{or} electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by a local unit of government or a state agency. ✓

insert 2-5:

(d) "State agency" means any office, department^{or} independent agency in the executive branch of Wisconsin state government, the legislature^{and} the courts. ✓

insert 2-18:

(c) The fee for, or the cost of, obtaining^{a copy of} the record from the state agency or local unit of government that has custody of the record.

(d) The information necessary to contact the state agency or local unit of government that has custody of the record.

1

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Insert 3-18: *e more*

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not and not *less* than \$200 for each solicitation document distributed in violation

4

of this section subsequent to the first violation



**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1184/2dn

RPN:cjs:jm

stays

2

- date -

Mike,

I prepared this redraft in response to your email of Sept. 30. Please read it carefully to make sure it meets your intent.

Robert Nelson
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1184/2dn
RPN:cjs:jm

October 21, 2013

Mike,

I prepared this redraft in response to your email of Sept. 30. Please read it carefully to make sure it meets your intent.

Robert Nelson
Senior Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov

Nelson, Robert

From: Murray, Mike
Sent: Monday, November 11, 2013 12:30 PM
To: Nelson, Robert
Subject: DATCP comments on LRB -1184/2

Hi Bob, thanks for all of your work on this draft. DATCP has just a few more suggested revisions that Rep. Hebl would like to incorporate. They are listed in the email below.

Thanks again,

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Chalmers, Sandy S - DATCP [<mailto:Sandy.Chalmers@wisconsin.gov>]
Sent: Thursday, October 31, 2013 4:16 PM
To: Murray, Mike; Portz, Elisabeth
Cc: Moll, Keeley A - DATCP; Reinen, Michelle J - DATCP; Heaton-Amrhein, Jennifer A - DATCP
Subject: comments on draft

Mike –

Thank you for sharing this draft with us. Following are our comments. If you have questions, please give me a call to discuss.

- ✓ 1. The department does not support a DATCP registration requirement. However, if that provision does remain in the bill, please add "by rulemaking" after the word "department" in either 100.313 (2) – page 2, line 19 or 100.313 (2) -- page 3, line 1. This is needed to clarify that the department has rulemaking authority to establish fees.
2. Definition of solicit (100.313 (c)) currently says to "advertise or market to an individual with whom the solicitor has no pre-existing business relationship." We recommend that you ask the drafter about the use of the word "individual." Since the word "individual" usually means a human being, and this statute would also apply to business to business solicitations, we wonder whether the word "individual" should be changed to "person," and then a definition of "person" should be added. *DATCP says small business are being targeted*
- ✓ 3. We recommend changing the wording in 103.313 (7) from "The department shall investigate. . ." to "The department may investigate. . ."

Sandy Chalmers

Administrator, Division of Trade and Consumer Protection
Department of Agriculture, Trade and Consumer Protection
Ph 608.224.4929
Fx 608.224.4939
sandy.chalmers@wisconsin.gov



Follow Consumer Protection on Facebook!

DETACH AND MAIL THIS STUB WITH YOUR PROCESSING FEE
DO NOT INCLUDE NOTES WITH YOUR PAYMENT
DO NOT STAPLE, TAPE OR CLIP PAYMENT STUB OR CHECK.

2013

Madison, WI 53705-1309

PROPERTY NO:	
[REDACTED]	
COUNTY:	
DANE	
Response Date	Document Fee
11/29/2013	\$83.00

MAKE CHECKS PAYABLE TO:
RECORD TRANSFER SERVICES
Please write the PROPERTY NO. on the
lower left corner of your check

RECORD TRANSFER SERVICES
2522 W 41st Street #400
Sioux Falls, SD 57105

Your Phone Number: _____

Real Estate Property Records (also called *property ownership records*) Is public information in the United States of America, which means anyone can access it. Real property records are generally filed with and kept on a county level; they originate from two major governmental sources: County Recorder's or Courthouse. Acquiring property information or running a title search used to intend going to the local recorder's office, waiting for hours and often filling out forms and paying a fee for each copy of a property record. Record Transfer Services's high-speed online communications and secure e-commerce have made it possible to employ electronic property searches and deliver millions of real property records in a timely fashion. In addition to deeds; Record Transfer Services also prepares property reports for homeowners; including comparable sales data, transaction history, nearby neighbors, schools, and crime rates, Record Transfer Services also offers street maps and satellite images, county officials and demographic information. Our traditional searches are limited to County and State.

What is Real Property? The rights that one individual has in land or goods to the exclusion of all others; rights gained from the ownership of wealth. Property includes all those things and rights which are the object of ownership. Real property consists of land or anything attached to or a part of the land such as a house. Real property is commonly known as Real Estate. Property that becomes an integral part of a building such as heating and air conditioning units is also considered to real property. All other property such as stocks, bonds, jewelry is called personal property - our agency deals wholly with general real estate, and particularly with real estate property records.

What are Real Property Records? Real Property Records contain all of the recorded data associated with a particular Real Estate. Real Property definition includes many different types of properties such as **residential, condominium, commercial, industrial, vacant land, mobile home, and time-shares.**

What is Property Title? Evidence that the ownership of Real Estate is in lawful possession and evidence of ownership; it is the owner's right to possess and use the property.

What is a Property Deed? A written document properly signed and delivered, that conveys title to the real property. There are several types of deeds: General Warranty Deed, Quitclaim Deed, Special Warranty Deed, Grant Deed, Trustee's Deed and others.

Forms of Property Ownership: Real property can be held in several different methods, which affect income tax, estate tax, continuity, liability, survivorship, transferability, disposition at death and at bankruptcy. Most recognizable property ownership types are:

Tenancy in severalty: Ownership of property by one person or one legal entity.

Join tenancy with right of survivorship: Two or more persons own a property. A joint tenant with the common law right of survivorship means the survivor inherits the property without reference to the decedent's will. Creditors may sue to have the property divided to settle claims against one of the owners.

Tenancy by the entireties: A husband and wife own the property with the common law right of survivorship so, if one dies, the other automatically inherits.

Tenancy in common: Two or more persons own the property with no right of survivorship; each has an undivided interest. If one dies, his interest passes to his heirs, not necessarily the co-owner. Either party, or a creditor of one, may sue to partition the property.

Other Real Estate forms of ownership are business kinds such as: Corporation, Limited Partnership, Partnership, Real Estate Investment Trust, and Subchapter S Corporation. Practically all types of real estate can be held under virtually all forms of ownership.

Record are available at your local county recorder for a nominal fee; however you will need to go to the county recorder's office in person. You will not be able to receive a profile report as this is proprietary and only deliverable upon purchase of our services.

DISCLAIMER: *The company Record Transfer Services is not affiliated with the State of WI or the County Recorder. Record Transfer Services is an analysis and retrieval firm that uses multiple resources that provide supporting values, deeds and evidence that is used to execute a property reports and deliver requested deed.

Record Transfer Services is not affiliated with the county in which your deed is filed in, nor affiliated with 'any' other government agencies. This offer serves as a solicitation for services and not to be interpreted as a bill due.

"Certified copies of property deeds are available at the county clerk's office. The county clerk's office may charge a small fee for certified copies of such deeds, usually between two and four dollars a page. Since most property deeds are between two and five pages in length, a certified copy can usually be obtained for between four and twenty dollars."

RECORD TRANSFER SERVICES
2522 W 41st Street # 400
Sioux Falls, SD 57105
PHONE: 888-874-4669

**THIS SERVICE TO OBTAIN A COPY OF YOUR DEED OR OTHER
RECORD OF TITLE NOT ASSOCIATED WITH ANY GOVERNMENTAL
AGENCY. YOU CAN OBTAIN A COPY OF YOUR DEED OR OTHER
RECORD OF YOUR TITLE FROM THE COUNTY RECORDER
WHERE YOUR PROPERTY IS LOCATED FOR A NOMINAL FEE.**



DEED PROCESSING NOTICE

5110 Lake Mendota Dr
Madison, WI 53705-1309



PROPERTY NO:	
[REDACTED]	
COUNTY:	
DANE	
Response Date	Document Fee
11/29/2013	\$83.00

Detach and mail

November 2013

11/29/2013

Compliance Response Date

Document Number

59-84H5-746e-W596-789-A-9

Why you need a copy of your current Grant Deed and property profile?

Record Transfer Services recommends that all WI homeowners obtain a copy of their current Grant Deed. This document provides evidence that the property at 5110 Lake Mendota Dr, was in fact transferred to the individual(s) Robert Nelson.

A Property Profile provides a wealth of information useful to understanding a subject property's makeup. This report includes the property address, owner's name, comparable values, and legal description or parcel identification number. This report will return all pertinent property and owner information for the designated property.

Records obtained through public information show a deed was recorded in your name Robert Nelson on 10/15/2013, which indicates your ownership and or interest in the specified property below.

DANE COUNTY PUBLIC INFORMATION

Purchase or Transfer Date: 10/15/2013
Sale Amount: \$3,000.00
Land Value ID: 156-85
Improvements: 24

Year Built: 1958
Lot Code: C010
Pool: N/A
Square Feet: 2202

Doc Number: 55-9D
Property Zone: 20100922
Use Code: 262
Parcel No: 25P6098172

Legal Property Address: 5110 Lake Mendota Dr Madison, WI 53705-1309

To obtain a copy of your Deed and complete Property Profile, please detach and return in the enclosed envelope with your processing fee of \$83.00. You will receive your documents and report within 21 business days.

Upon receipt of your processing fee, your request will be submitted for document preparation and review. If for any reason your request for deed and property profile cannot be obtained, your processing fee will be immediately refunded.

Record Transfer Services is not affiliated with the county in which your deed is filed in, nor affiliated with any government agencies. This offer serves as a solicitation for services and not to be interpreted as a bill due.

This product or service has not been approved, or endorsed by any government agency, and this offer is not being made by an agency of the government. This is not a bill. This is a solicitation; you are under no obligation to pay the amount stated, unless you accept this offer.



In 11/12
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1184/2

RPN:cjs:jm

stays

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2013 BILL

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1 AN ACT to create 100.313 of the statutes; relating to: solicitation of a fee by a
2 private person for a public record, granting rule-making authority, and
3 providing a penalty.

business or individual

use 3x

Analysis by the Legislative Reference Bureau

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee for receiving a copy of a public record.

This bill prohibits a person from soliciting a fee for providing a copy of a public record until the person registers with the Department of Agriculture, Trade and Consumer Protection (DATCP). The bill requires any document used to make a solicitation of a fee to provide a copy of a public record to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the governmental office that has custody of the public record and fee for, or cost of, obtaining the public record from that office, and the solicitor's name, address, and DATCP registration number, and contact information.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the solicited person. The bill prohibits the solicitor from charging more than four times the amount charged by the governmental office that has custody of the public record.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made for a copy of a deed with a copy of the solicitation

DATCP's

BILL

document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority or, at the request of DATCP, the department of justice or a district attorney authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds of moneys paid to a violator, and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.313 of the statutes is created to read:

2 **100.313 Solicitation of a fee for providing a public record.** (1) In this
3 section:

4 (a) "Local unit of government" means a political subdivision of this state, a
5 special purpose district in this state, an instrumentality or corporation of such a
6 political subdivision or special purpose district, or a combination or subunit of any
7 of the foregoing.

8 (b) "Record" means any material on which written, drawn, printed, spoken,
9 visual, or electromagnetic information is recorded or preserved, regardless of
10 physical form or characteristics, which has been created or is being kept by a local
11 unit of government or a state agency.

12 (c) "Solicit" means advertise or market to ^{a person} an individual with whom the solicitor
13 has no preexisting business relationship.

14 (d) "State agency" means any office, department, or independent agency in the
15 executive branch of Wisconsin state government, the legislature, and the courts.

16 **(2)** No business or individual may solicit a fee for providing a copy of any record
17 until the business or individual has registered with the department, obtained a
18 registration number from the department, and paid an initial registration fee and
19 any annual registration renewal fee established by the department. ^{by rule} The registration

BILL

1 fees established by the department shall be sufficient to defray the department's
2 expenses in administering this section.

3 (3) A business or individual soliciting a fee for providing a copy of a record shall
4 state on the top of the document used for the solicitation, in at least 24-point type,
5 all of the following:

6 (a) That the solicitation is not from a state agency or local unit of government.

7 (b) That no action is legally required by the person being solicited.

8 (c) The fee for, or the cost of, obtaining a copy of the record from the state agency
9 or local unit of government that has custody of the record.

10 (d) The information necessary to contact the state agency or local unit of
11 government that has custody of the record.

12 (e) The department's registration number issued to the solicitor, identified as
13 such, and the contact information of the department.

14 (f) The name and physical address of the business or individual soliciting the
15 fee.

16 (4) The document used for a solicitation under this section may not be in a form
17 or use deadline dates or other language that makes the document appear to be a
18 document issued by a state agency or local unit of government or that appears to
19 impose a legal duty on the person being solicited. The department may promulgate
20 rules specifying the contents and form of the solicitation document.

21 (5) A business or individual soliciting a fee for providing a copy of a record may
22 not charge a fee of more than 4 times the amount charged by the state agency or local
23 unit of government that has custody of the record for a copy of the same record.

24 (6) A business or individual soliciting a fee from property owners for providing
25 a copy of a deed shall furnish the office of the register of deeds of each county where

BILL**SECTION 1**

1 the solicitations are to be distributed with a copy of the document that will be used
2 for those solicitations not less than 15 days before distributing the solicitations.

3 (7) The department ~~shall~~ ^{may} investigate violations of this section. The department
4 may suspend or revoke the registration of any person who violates this section. The
5 department may bring an action or request that the department of justice or a district
6 attorney bring an action against any person who violates this section. The court may
7 order the person who violates this section to refund all of the moneys paid to the
8 violator and to forfeit, for a first violation, not more than \$100 for each solicitation
9 document distributed in violation of this section, and not more than \$200 for each
10 solicitation document distributed in violation of this section subsequent to the first
11 violation.

12 (END)

Nelson, Robert

From: Murray, Mike
Sent: Friday, November 15, 2013 11:38 AM
To: Nelson, Robert
Subject: DATCP comments on LRB -1184/2

Hi Bob, thanks for the changes that you made in 1184/3. The only thing that needs to be changed is to remove the requirement that the business register with DATCP; other than that, it's ready to go. Thanks again,

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Murray, Mike
Sent: Monday, November 11, 2013 12:30 PM
To: Nelson, Robert
Subject: DATCP comments on LRB -1184/2

Hi Bob, thanks for all of your work on this draft. DATCP has just a few more suggested revisions that Rep. Hebl would like to incorporate. They are listed in the email below.

Thanks again,

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

From: Chalmers, Sandy S - DATCP [<mailto:Sandy.Chalmers@wisconsin.gov>]
Sent: Thursday, October 31, 2013 4:16 PM
To: Murray, Mike; Portz, Elisabeth
Cc: Moll, Keeley A - DATCP; Reinen, Michelle J - DATCP; Heaton-Amrhein, Jennifer A - DATCP
Subject: comments on draft

Mike –

Thank you for sharing this draft with us. Following are our comments. If you have questions, please give me a call to discuss.

1. The department does not support a DATCP registration requirement. However, if that provision does remain in the bill, please add "by rulemaking" after the word "department" in either 100.313 (2) – page 2, line 19 or 100.313 (2) -- page 3, line 1. This is needed to clarify that the department has rulemaking authority to establish fees.
2. Definition of solicit (100.313 (c)) currently says to "advertise or market to an individual with whom the solicitor has no pre-existing business relationship." We recommend that you ask the drafter about the use of the word "individual." Since the word "individual" usually means a human being, and this statute would also apply to business to business solicitations, we wonder whether the word "individual" should be changed to "person," and then a definition of "person" should be added.



In 11/18
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1184/3

RPN:cjs:rs

Stays

2013 BILL

- AN ACT *to create* 100.313 of the statutes; relating to: solicitation of a fee by a business or individual for a public record, granting rule-making authority, and providing a penalty.

or a small fee

Analysis by the Legislative Reference Bureau

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee for receiving a copy of a public record.

This bill prohibits a business or individual from soliciting a fee for providing a copy of a public record until the business or individual registers with the Department of Agriculture, Trade and Consumer Protection (DATCP). The bill requires any document used to make a solicitation of a fee to provide a copy of a public record to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the governmental office that has custody of the public record and fee for, or cost of, obtaining the public record from that office, the solicitor's name, address, and DATCP registration number, and DATCP's contact information.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the solicited person. The bill prohibits the solicitor from charging more than four times the amount charged by the governmental office that has custody of the public record.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made for a copy of a deed with a copy of the solicitation

BILL

document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority or, at the request of DATCP, the department of justice or a district attorney authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds of moneys paid to a violator, and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

✓
1 **SECTION 1.** 100.313 of the statutes is created to read:

2 **100.313 Solicitation of a fee for providing a public record.** (1) In this
3 section:

4 (a) "Local unit of government" means a political subdivision of this state, a
5 special purpose district in this state, an instrumentality or corporation of such a
6 political subdivision or special purpose district, or a combination or subunit of any
7 of the foregoing.

8 (b) "Record" means any material on which written, drawn, printed, spoken,
9 visual, or electromagnetic information is recorded or preserved, regardless of
10 physical form or characteristics, which has been created or is being kept by a local
11 unit of government or a state agency.

12 (c) "Solicit" means advertise or market to a person with whom the solicitor has
13 no preexisting business relationship.

14 (d) "State agency" means any office, department, or independent agency in the
15 executive branch of Wisconsin state government, the legislature, and the courts.

✕ 16 (2) No business or individual may solicit a fee for providing a copy of any record
17 until the business or individual has registered with the department, obtained a
18 registration number from the department, and paid an initial registration fee and
19 any annual registration renewal fee established by the department by rule. The

BILL

1 registration fees established by the department shall be sufficient to defray the
2 department's expenses in administering this section.

3 (3) A business or individual soliciting a fee for providing a copy of a record shall
4 state on the top of the document used for the solicitation, in at least 24-point type,
5 all of the following:

6 (a) That the solicitation is not from a state agency or local unit of government.

7 (b) That no action is legally required by the person being solicited.

8 (c) The fee for, or the cost of, obtaining a copy of the record from the state agency
9 or local unit of government that has custody of the record.

10 (d) The information necessary to contact the state agency or local unit of
11 government that has custody of the record.

12 (e) ~~The department's registration number issued to the solicitor, identified as~~
13 ~~such, and the contact information of the department.~~

14 (f) The name and physical address of the business or individual soliciting the
15 fee.

16 (4) The document used for a solicitation under this section may not be in a form
17 or use deadline dates or other language that makes the document appear to be a
18 document issued by a state agency or local unit of government or that appears to
19 impose a legal duty on the person being solicited. The department may promulgate
20 rules specifying the contents and form of the solicitation document.

21 (5) A business or individual soliciting a fee for providing a copy of a record may
22 not charge a fee of more than 4 times the amount charged by the state agency or local
23 unit of government that has custody of the record for a copy of the same record.

24 (6) A business or individual soliciting a fee from property owners for providing
25 a copy of a deed shall furnish the office of the register of deeds of each county where

BILL**SECTION 1**

1 the solicitations are to be distributed with a copy of the document that will be used
2 for those solicitations not less than 15 days before distributing the solicitations.

3 (7) The department may investigate violations of this section. The department
4 may suspend or revoke the registration of any person who violates this section. The
5 department may bring an action or request that the department of justice or a district
6 attorney bring an action against any person who violates this section. The court may
7 order the person who violates this section to refund all of the moneys paid to the
8 violator and to forfeit, for a first violation, not more than \$100 for each solicitation
9 document distributed in violation of this section, and not more than \$200 for each
10 solicitation document distributed in violation of this section subsequent to the first
11 violation.

12 (END)

Rose, Stefanie

From: Murray, Mike
Sent: Friday, November 22, 2013 12:15 PM
To: LRB.Legal
Subject: Draft Review: LRB -1184/4 Topic: Land record solicitations

Please Jacket LRB -1184/4 for the ASSEMBLY.

Nelson, Robert

From: Murray, Mike
Sent: Friday, December 06, 2013 9:49 AM
To: Nelson, Robert
Cc: Portz, Elisabeth
Subject: FW: Register of Deeds scamming letters
Attachments: 3203_001.pdf

Hi Bob, please see that attached pdf for LRB 1184/4 that contains language regarding an exception for title insurance companies. Rep. Ripp is going to be the lead sponsor of the bill and would like to include the changes located on pp. 2 and 4. He would like circulate the bill for sponsorship today if at all possible. Do you think that you would be able to get this revision done today?

I have copied Rep. Ripp's staffer Liz to this email so that her office can submit any drafting further drafting requests if necessary.

Thanks Bob for all of your help on this draft.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1184/4
RPN:cjs:jf

2013 BILL

(see changes suggested by
WLTA on pages 2 & 4.)

- 1 **AN ACT** *to create* 100.313 of the statutes; **relating to:** solicitation of a fee by a
2 business or individual for a public record, granting rule-making authority, and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee or a small fee for receiving a copy of a public record.

The bill requires any document used by a business or individual to make a solicitation of a fee to provide a copy of a public record to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the governmental office that has custody of the public record and fee for, or cost of, obtaining the public record from that office, and the solicitor's name.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the solicited person. The bill prohibits the solicitor from charging more than four times the amount charged by the governmental office that has custody of the public record.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made for a copy of a deed with a copy of the solicitation document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority or, at the request of DATCP, the department of justice or a



Wanted TODAY 12/9
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1184/4 ✓ 5
RPN:cjs:jf

Stays

2013 BILL

Gen Cat

- 1 AN ACT *to create* 100.313 of the statutes; **relating to:** solicitation of a fee by a
2 business or individual for a public record, granting rule-making authority, and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Currently an individual may request a copy of a public record from a state agency or local unit of government and, upon the payment of a fee for the cost of producing a copy of the public record, receive a copy of that record. In many cases there is no fee or a small fee for receiving a copy of a public record.

The bill requires any document used by a business or individual to make a solicitation of a fee to provide a copy of a public record to state, in at least 24-point type, that the solicitation is not from a governmental agency, that no action is legally required by the person being solicited, the contact information for the governmental office that has custody of the public record and fee for, or cost of, obtaining the public record from that office, and the solicitor's name.

The bill specifies that the solicitation document may not be in a form that makes it appear to be from a governmental agency or to impose a legal duty upon the solicited person. The bill prohibits the solicitor from charging more than four times the amount charged by the governmental office that has custody of the public record.

The bill also requires a solicitor to furnish the register of deeds of each county where a solicitation is to be made for a copy of a deed with a copy of the solicitation document at least 15 days before the solicitation is distributed. In addition, the bill gives DATCP authority or, at the request of DATCP, the department of justice or a

BILL

district attorney authority to bring an action against any person who violates the provisions of this bill, allows the court to order refunds of moneys paid to a violator, and creates a forfeiture of up to \$100 for each solicitation document distributed in violation of the bill's provisions.

← (A) The bill does not apply to a title insurance company authorized to do business in this state.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.313 of the statutes is created to read:

100.313 Solicitation of a fee for providing a public record. (1) In this section:

(a) "Local unit of government" means a political subdivision of this state, a special purpose district in this state, an instrumentality or corporation of such a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

(b) "Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by a local unit of government or a state agency.

(c) "Solicit" means advertise or market to a person with whom the solicitor has no preexisting business relationship.

(d) "State agency" means any office, department, or independent agency in the executive branch of Wisconsin state government, the legislature, and the courts.

(2) A business or individual soliciting a fee for providing a copy of a record shall state on the top of the document used for the solicitation, in at least 24-point type, all of the following:

(a) That the solicitation is not from a state agency or local unit of government.

(b) That no action is legally required by the person being solicited.

BILL

1 (c) The fee for, or the cost of, obtaining a copy of the record from the state agency
2 or local unit of government that has custody of the record.

3 (d) The information necessary to contact the state agency or local unit of
4 government that has custody of the record.

5 (e) The name and physical address of the business or individual soliciting the
6 fee.

7 (4) The document used for a solicitation under this section may not be in a form
8 or use deadline dates or other language that makes the document appear to be a
9 document issued by a state agency or local unit of government or that appears to
10 impose a legal duty on the person being solicited. The department may promulgate
11 rules specifying the contents and form of the solicitation document.

12 (5) A business or individual soliciting a fee for providing a copy of a record may
13 not charge a fee of more than 4 times the amount charged by the state agency or local
14 unit of government that has custody of the record for a copy of the same record.

15 (6) A business or individual soliciting a fee from property owners for providing
16 a copy of a deed shall furnish the office of the register of deeds of each county where
17 the solicitations are to be distributed with a copy of the document that will be used
18 for those solicitations not less than 15 days before distributing the solicitations.

19 (7) The department may investigate violations of this section. The department
20 may bring an action or request that the department of justice or a district attorney
21 bring an action against any person who violates this section. The court may order
22 the person who violates this section to refund all of the moneys paid to the violator
23 and to forfeit, for a first violation, not more than \$100 for each solicitation document

BILL

SECTION 1

- 1 distributed in violation of this section, and not more than \$200 for each solicitation
2 document distributed in violation of this section subsequent to the first violation.

3

(END)

⑦ ^③
(8) This section does not apply to a title insurance company or its authorized agent.

~~707.49(a)(4).~~

authorized to do business in
this state

Nelson, Robert

From: Murray, Mike
Sent: Monday, December 09, 2013 1:07 PM
To: Nelson, Robert
Subject: RE: Register of Deeds scamming letters

Sounds good, thanks bob.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

-----Original Message-----

From: Nelson, Robert
Sent: Monday, December 09, 2013 1:06 PM
To: Murray, Mike
Subject: RE: Register of Deeds scamming letters

Mike,

I think this draft will take care of his concern.

Bob N

-----Original Message-----

From: Murray, Mike
Sent: Monday, December 09, 2013 12:57 PM
To: Nelson, Robert
Subject: RE: Register of Deeds scamming letters

Hi Bob, that sounds good. I think that Rep. Ripp's office just wanted to make sure that there was some sort of parameters around who was considered a title insurance company in order to prevent any solicitor from claiming to be a title insurance company in order to evade the regulations under the bill. If you think that the current draft would accomplish that, I think it should be fine.

Mike

Mike Murray
Office of Rep. Gary Hebl
46th Assembly District

-----Original Message-----

From: Nelson, Robert
Sent: Monday, December 09, 2013 12:53 PM
To: Murray, Mike
Subject: RE: Register of Deeds scamming letters

Mike,

I talked to the drafter who deals with insurance and title insurance companies. She reviewed the current statutes, found there is no current definition for title companies, and thought that the definition suggested is not clear, so I left it out of the draft. It is unclear in the proposed definition if the phrase "in this state" applied to the title company or to the real property.

I used language currently in the statutes about the title company being authorized to do business in this state in the new language added to page 4 of the bill.

Bob N

-----Original Message-----

From: Murray, Mike

Sent: Monday, December 09, 2013 12:16 PM

To: Nelson, Robert

Cc: Portz, Elisabeth

Subject: RE: Register of Deeds scamming letters

Hi Bob, thanks for getting this to us right away. Just one thing: the proposed changes included a definition for "Title insurance company" on page 2. If you could include that definition that would be great (unless the term is already defined in statute). Thanks,

Mike

Mike Murray

Office of Rep. Gary Hebl

46th Assembly District

-----Original Message-----

From: Murray, Mike

Sent: Monday, December 09, 2013 9:42 AM

To: Nelson, Robert

Cc: Portz, Elisabeth

Subject: RE: Register of Deeds scamming letters

Hi Bob, no problem. I'll send over the jacket now.

Mike

Mike Murray

Office of Rep. Gary Hebl

46th Assembly District

-----Original Message-----

From: Nelson, Robert

Sent: Monday, December 09, 2013 9:41 AM

To: Murray, Mike

Subject: RE: Register of Deeds scamming letters

Mike,

Sorry, I do not work on Fridays so I will get this redraft out today if possible. I see that it was already jacketed so please send the jacket back to our front office. We cannot finish the redrafting without the jacket.

Bob N

-----Original Message-----

From: Murray, Mike

Sent: Friday, December 06, 2013 9:49 AM

To: Nelson, Robert

Cc: Portz, Elisabeth

Subject: FW: Register of Deeds scamming letters

Hi Bob, please see that attached pdf for LRB 1184/4 that contains language regarding an exception for title insurance companies. Rep. Ripp is going to be the lead sponsor of the bill and would like to include the changes located on pp. 2 and 4. He would like circulate the bill for sponsorship today if at all possible. Do you think that you would be able to get this revision done today?

I have copied Rep. Ripp's staffer Liz to this email so that her office can submit any drafting further drafting requests if necessary.

Thanks Bob for all of your help on this draft.

Mike

Mike Murray

Office of Rep. Gary Hebl

46th Assembly District